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d/b/a Meridian Global

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MATTHEW PLISKIN, AS TRUSTEE
OF THE ICPW NEVADA TRUST,

Plaintiff,

v.

ROBERT GOLDSTEIN and DRG
STRATEGIC, LLC d/b/a MERIDIAN
GLOBAL,

Defendants.

CASE NO.: 2:18-cv-09491 FMO (ASx)

**DEFENDANTS' REPLY IN
SUPPORT OF MOTION TO
DISMISS PLAINTIFF'S
COMPLAINT**

Date: February 14, 2019
Time: 10:00 a.m.
Place: Courtroom 6D
Judge: Hon. Fernando M. Olguin

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff's Opposition to Defendants Robert Goldstein ("Goldstein") and DRG Strategic, LLC, d/b/a Meridian Global ("DRG") (collectively "Defendants") Motion to Dismiss only underscores the defects in Plaintiff's Complaint in establishing that Defendants possessed the requisite minimum contacts with the State of California. Plaintiff's claims against Defendants are for "aiding and abetting breach of fiduciary duty" and "unjust enrichment." Nowhere in his Opposition does Plaintiff dispute that the communications leading up to, and the finalization of, the ultimate agreement between Defendants and Ironclad—the conduct forming the basis of these claims—took place solely in the State of Texas. Instead, Plaintiff tries to connect Defendants to California by focusing on the relabeling of the gloves in a warehouse in Los Angeles. Plaintiff misses the point. The action of relabeling the gloves has no bearing on his purported claims, and there is no allegation by Plaintiff that Ironclad's injuries were in any way caused by the relabeling in California. Because the entirety of the negotiations and formation of the agreement that form the basis of this action took place solely in the State of Texas, the Court should dismiss these claims with prejudice for lack of specific jurisdiction.

II. ARGUMENT

A. The Conduct Forming the Basis of the Action Occurred Solely in the State of Texas

Plaintiff's causes of action for "aiding and abetting breach of fiduciary duty" and "unjust enrichment" center around an agreement whereby Plaintiff alleges Defendants agreed to act "as the counterparty in several phony round-trip transactions." *See* Plaintiff's Opp'n at p. 6. It is this agreement to engage in a series of allegedly fraudulent transactions that form the basis of Plaintiff's claims. Notably, the facts show that the conduct leading to the formation of this agreement took place exclusively in the State of Texas.

1 First, all conversations, whether in person, email, telephone, or in writing took
 2 place in Texas. *See* Declaration of Robert Goldstein (“Goldstein Decl.”) at ¶ 4. This
 3 includes all negotiations and business dealings between Defendants and Ironclad. *Id.*
 4 Additionally, the actual agreement entered into between Defendants and Ironclad took
 5 place in Texas. *Id.* at ¶¶ 5, 10. Finally, following the execution of the agreement,
 6 Defendants sent all invoices to Ironclad in Texas, and all payments were made by
 7 Ironclad in Texas. *Id.* It is exclusively this conduct that forms the basis of Plaintiff’s
 8 claims for “aiding and abetting breach of fiduciary duty” and “unjust enrichment,” and
 9 it is clear that this conduct occurred exclusively in Texas. Nowhere in his Opposition
 10 does Plaintiff dispute that the conduct described here took place anywhere other than in
 11 Texas. As such, Plaintiff cannot show a substantial connection between Defendants and
 12 the State of California regarding the formation of this allegedly fraudulent scheme.
 13 *Walden v. Fiore*, 571 U.S. 277, 284 (2014).

14 Of note, in the Declaration of Matthew Pliskin (“Pliskin Decl.”) submitted in
 15 support of his Opposition to Defendants’ Motion to Dismiss, Plaintiff states that
 16 approximately 37% of the total shares of Ironclad were held by known residents of
 17 California. Pliskin Decl. at ¶ 3. However, Plaintiff provides no case law in support of
 18 his implicit suggestion that the residency of Ironclad’s shareholders in some way
 19 establishes minimum contacts between Defendants and the State of California. Such an
 20 argument is nonsensical.

21 **B. The Conduct Forming the Basis of Plaintiff’s Claims Does Not Involve**
 22 **the Relabeling of the Gloves**

23 The only contacts Defendants are alleged to have had with the State of California
 24 involve the relabeling of gloves after Defendants would purchase them from Ironclad.
 25 In an attempt to establish this contact, Plaintiff attaches to his Declaration copies of
 26 invoices from Ironclad to Defendants, addressed to their warehouse in Los Angeles
 27 County, and tracking orders/purchase orders showing the location of the inventory at
 28 that warehouse. Pliskin Decl. at ¶¶ 4-6. Defendants do not dispute that relabeling took

place in California, but what Plaintiff fails to dispute in his Opposition or Declaration is that this contact in itself does not establish sufficient “minimum contacts” with California for the purposes of Plaintiff proving that Defendants entered into a fraudulent scheme—the basis of his Complaint. The act of relabeling the gloves has no bearing on the alleged fraudulent conduct supporting Plaintiff’s claims for “aiding and abetting breach of fiduciary duty” and “unjust enrichment.” Plaintiff makes no allegation either in his Complaint, Opposition, or supporting Declaration that the gloves were improperly labeled, or that Defendants’ relabeling of the gloves in California caused Ironclad any injury. In fact, Defendants properly relabeled the gloves, Defendants were fully paid for the relabeling, the gloves were sold back to Ironclad after Defendants were unable to sell them abroad, and Ironclad eventually resold the gloves with the new labels. Goldstein Decl. at ¶ 9.

Additionally, the location of where the gloves were relabeled is irrelevant to Plaintiff’s task of trying to establish that Defendants entered into a fraudulent scheme. The conduct at issue is the facts leading up to the agreement and the agreement itself, not the manufacturing of the labels. The gloves could have been relabeled anywhere—in California, Texas, or Canada—and it would not affect Plaintiff’s claims or what he is required to prove in either of his two causes of action.

III. CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court grant its Motion and dismiss Plaintiff’s Complaint with prejudice.

DATED: January 31, 2019

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